

AMENDED IN ASSEMBLY JULY 12, 2001

AMENDED IN SENATE APRIL 16, 2001

SENATE BILL

No. 573

Introduced by Senator Chesbro Burton

February 22, 2001

~~An act to add Article 2.55 (commencing with Section 1643) to Chapter 4 of Division 2 of the Business and Professions Code, relating to dentistry, and making an appropriation therefor. An act to amend Section 1373.10 of the Health and Safety Code, and to amend Sections 10127.3 and 10176 of the Insurance Code, relating to health care coverage.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 573, as amended, ~~Chesbro Burton. Dentistry: special permits~~
Health care coverage: acupuncture.

Existing law requires a health care service plan, that is not a health care maintenance organization or is not a plan that enters exclusively into specialized health care service plan contracts, and a disability insurer issuing policies on a groupwide basis, to offer acupuncture coverage under those terms and conditions as may be agreed upon by the parties, with specified exceptions. A willful violation of the laws regulating health care service plans is a crime.

This bill would instead require every health care service plan, and every disability insurer issuing policies on a groupwide basis, to provide acupuncture coverage under those terms and conditions as may be agreed upon by the parties, with specified exception. Because a violation of this bill's requirements with respect to a health care service



plan would be a crime, this bill would impose a state-mandated local program by creating a new crime.

Existing law authorizing a disability insurance policy to provide payment for acupuncture services requires that the disability insurance policy or contract expressly include acupuncture as a benefit in order for a licensed or certified acupuncturist to be paid or reimbursed under the policy for his or her services.

This bill would delete the requirement conditioning the payment and reimbursement of a certified or licensed acupuncturist, for his or her services, on the express inclusion of acupuncture as a benefit in a disability insurance policy or contract.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law, the Dental Practice Act, provides for the licensure and regulation of dentists by the Dental Board of California. Under this act, licensees are required to pay fees, including a fee for the initial issuance and renewal of their licenses, and are subject to criminal prosecution for engaging in specified conduct relating to the practice of dentistry. Under the act, 75% of the fees and fines imposed for engaging in criminal conduct are deposited into the State Dentistry Fund, which is continuously appropriated. Under the act's provisions, a person with a pending employment contract with a California dental college who meets certain requirements is authorized to apply for a special permit examination and may practice that specialty or discipline under a special permit while employed full time at the dental college.~~

~~This bill would authorize the board to issue a special permit to a person licensed to practice dentistry in another state or country who has not taken a board examination but has a contract to practice dentistry full time, as defined, in a primary care clinic. The bill would specify that a special permit issued under these provisions is automatically revoked upon the termination of its holder's full-time practice of dentistry at that primary care clinic. Because the bill would make the holder of a special permit subject to the provisions regulating the practice of dentistry, it would increase the number of persons paying both fees and fines. Because this revenue would be deposited into the State Dentistry Fund,~~



~~which is continuously appropriated, the bill would make an appropriation.~~

~~Because the bill would increase the number of persons subject to criminal prosecutions for engaging in conduct prohibited by the act and would expand the crime of perjury, it would expand the scope of existing crimes, thereby imposing a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: $\frac{2}{3}$ majority. Appropriation: ~~yes~~ *no*. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Article 2.55 (commencing with Section 1643)~~
2 ~~is~~

3 *SECTION 1. Section 1373.10 of the Health and Safety Code*
4 *is amended to read:*

5 1373.10. ~~(a)~~ On and after January 1, 1985, every health care
6 service plan, ~~that is not a health maintenance organization or is not~~
7 ~~a plan that enters exclusively into specialized health care service~~
8 ~~plan contracts, as defined by subdivision (n) of Section 1345,~~
9 which provides coverage for hospital, medical, or surgical
10 expenses, shall ~~offer~~ *provide* coverage to group contract holders
11 for expenses incurred as a result of treatment by holders of
12 certificates under Section 4938 of the Business and Professions
13 Code, under ~~such~~ terms and conditions as may be agreed upon
14 between the health care service plan and the group contract holder.

15 ~~A health care service plan is not required to offer the coverage~~
16 ~~provided by this section as part of any contract covering~~
17 ~~employees of a public entity.~~

18 ~~(b) For the purposes of this section, “health maintenance~~
19 ~~organization” or “HMO” means a public or private organization,~~
20 ~~organized under the laws of this state, which does all of the~~
21 ~~following:~~

22 ~~(1) Provides or otherwise makes available to enrolled~~
23 ~~participants health care services, including at least the following~~

1 ~~basic health care services: usual physician services,~~
2 ~~hospitalization, laboratory, X-ray, emergency and preventive~~
3 ~~services, and out-of-area coverage.~~

4 ~~(2) Is compensated, except for copayments, for the provision~~
5 ~~of basic health care services listed in paragraph (1) to enrolled~~
6 ~~participants on a predetermined periodic rate basis.~~

7 ~~(3) Provides physician services primarily directly through~~
8 ~~physicians who are either employees or partners of the~~
9 ~~organization, or through arrangements with individual physicians~~
10 ~~or one or more groups of physicians, organized on a group practice~~
11 ~~or individual practice basis.~~

12 *SEC. 2. Section 10127.3 of the Insurance Code is amended to*
13 *read:*

14 10127.3. On and after January 1, 1985, every insurer issuing
15 group disability insurance which covers hospital, medical, or
16 surgical expenses shall ~~offer~~ *provide* coverage for expenses
17 incurred as a result of treatment by holders of certificates under
18 Section 4938 of the Business and Professions Code, under ~~such~~
19 terms and conditions as may be agreed upon between the group
20 policyholder and the insurer.

21 ~~An insurer is not required to offer the coverage provided by this~~
22 ~~section as part of any policy covering employees of a public entity.~~

23 *SEC. 3. Section 10176 of the Insurance Code is amended to*
24 *read:*

25 10176. In disability insurance, the policy may provide for
26 payment of medical, surgical, chiropractic, physical therapy,
27 speech pathology, audiology, acupuncture, professional mental
28 health, dental, hospital, or optometric expenses upon a
29 reimbursement basis, or for the exclusion of any of those services,
30 and provision may be made therein for payment of all or a portion
31 of the amount of charge for these services without requiring that
32 the insured first pay the expenses. No such policy shall prohibit the
33 insured from selecting any psychologist or other person who is the
34 holder of a certificate or license under Section 1000, 1634, 2050,
35 2472, 2553, 2630, 2948, 3055, or 4938 of the Business and
36 Professions Code, to perform the particular services covered under
37 the terms of the policy, the certificate holder or licensee being
38 expressly authorized by law to perform those services.

39 ~~If the insured selects any person who is a holder of a certificate~~
40 ~~under Section 4938 of the Business and Professions Code, a~~

~~disability insurer or nonprofit hospital service plan shall pay the
bona fide claim of an acupuncturist holding a certificate pursuant
to Section 4938 of the Business and Professions Code for the
treatment of an insured person only if the insured's policy or
contract expressly includes acupuncture as a benefit and includes
coverage for the injury or illness treated. Unless the policy or
contract expressly includes acupuncture as a benefit, no person
who is the holder of any license or certificate set forth in this
section shall be paid or reimbursed under the policy for
acupuncture.~~

Nor shall any ~~such~~ policy prohibit the insured, upon referral by
a physician and surgeon licensed under Section 2050 of the
Business and Professions Code, from selecting any licensed
clinical social worker who is the holder of a license issued under
Section 4996 of the Business and Professions Code or any
occupational therapist as specified in Section 2570 of the Business
and Professions Code, or any marriage, family and child counselor
who is the holder of a license under Section 4980.50 of the
Business and Professions Code, to perform the particular services
covered under the terms of the policy, or from selecting any speech
pathologist or audiologist licensed under Section 2530 of the
Business and Professions Code or any registered nurse licensed
pursuant to Chapter 6 (commencing with Section 2700) of
Division 2 of the Business and Professions Code who possesses a
master's degree in psychiatric-mental health nursing and two years
of supervised experience in psychiatric-mental health nursing, at
~~such~~ that time as the State Board of Registered Nurses produces
and maintains a list of those psychiatric-mental health nurses who
possess a master's degree in psychiatric-mental health nursing and
two years of supervised experience in psychiatric-mental health
nursing, or any respiratory care practitioner certified pursuant to
Chapter 8.3 (commencing with Section 3700) of Division 2 of the
Business and Professions Code to perform services deemed
necessary by the referring physician, that certificate holder,
licensee or otherwise regulated person, being expressly authorized
by law to perform the services.

Nothing in this section shall be construed to allow any
certificate holder or licensee enumerated in this section to perform
professional mental health services beyond his or her field or fields
of competence as established by his or her education, training, and



1 experience. For the purposes of this section, “marriage, family and
2 child counselor” means a licensed marriage, family and child
3 counselor who has received specific instruction in assessment,
4 diagnosis, prognosis, and counseling, and psychotherapeutic
5 treatment of premarital, marriage, family, and child relationship
6 dysfunctions which is equivalent to the instruction required for
7 licensure on January 1, 1981.

8 An individual disability insurance policy, which is issued,
9 renewed, or amended on or after January 1, 1988, *and* which
10 includes mental health services coverage, may not include a
11 lifetime waiver for that coverage with respect to any applicant. The
12 lifetime waiver of coverage provision shall be deemed
13 unenforceable.

14 *SEC. 4. No reimbursement is required by this act pursuant to*
15 *Section 6 of Article XIII B of the California Constitution because*
16 *the only costs that may be incurred by a local agency or school*
17 *district will be incurred because this act creates a new crime or*
18 *infraction, eliminates a crime or infraction, or changes the penalty*
19 *for a crime or infraction, within the meaning of Section 17556 of*
20 *the Government Code, or changes the definition of a crime within*
21 *the meaning of Section 6 of Article XIII B of the California*
22 *Constitution.*

23 ~~added to Chapter 4 of Division 2 of the Business and Professions~~
24 ~~Code, to read:~~

25
26 ~~Article 2.55. Special Permits to Practice in Primary Care~~
27 ~~Clinics~~
28

29 ~~1643. The board may issue a special permit to an applicant~~
30 ~~without the applicant taking an examination before the board, if~~
31 ~~the applicant satisfies all of the following requirements:~~

32 ~~(a) He or she holds a license to practice dentistry issued by~~
33 ~~another state and that license is not expired, revoked, or restricted.~~

34 ~~(b) He or she furnishes the board with certification of licensure~~
35 ~~to practice dentistry from each state in which he or she is presently~~
36 ~~licensed or has been licensed to practice dentistry.~~

37 ~~(c) He or she has practiced dentistry continuously in another~~
38 ~~state or country since the time of being licensed to practice.~~

39 ~~(d) He or she has not been the subject of a disciplinary action~~
40 ~~by an entity that regulates the practice of dentistry.~~

1 ~~(e) His or her license to practice dentistry has not been~~
2 ~~suspended, revoked, or otherwise restricted.~~

3 ~~(f) He or she has practiced dentistry continuously for a period~~
4 ~~of at least two years immediately preceding the date of application~~
5 ~~for a special permit.~~

6 ~~(g) He or she provides the board with a declaration under~~
7 ~~penalty of perjury, attesting to the matters described in paragraphs~~
8 ~~(e) to (f), inclusive.~~

9 ~~(h) He or she furnishes the board with documentation showing~~
10 ~~the completion of 50 units of continuing education during the two~~
11 ~~years immediately preceding the date of application for a special~~
12 ~~permit. These units shall include the mandatory continuing~~
13 ~~education coursework prescribed by the board pursuant to~~
14 ~~subdivision (b) of Section 1645. An applicant who has been~~
15 ~~licensed to practice dentistry in another state or country for more~~
16 ~~than two years but less than four years shall not be required to~~
17 ~~comply with the requirements of this subdivision.~~

18 ~~(i) He or she files with the board a copy of a pending contract~~
19 ~~to practice dentistry full time in a primary care clinic licensed~~
20 ~~under subdivision (a) of Section 1204 of the Health and Safety~~
21 ~~Code or in a primary care clinic exempt from licensure pursuant~~
22 ~~to subdivision (e) of Section 1206 of the Health and Safety Code.~~

23 ~~For purposes of this article, “full time” means a minimum of~~
24 ~~four days per week.~~

25 ~~(j) He or she furnishes the board with any other additional~~
26 ~~information it requests.~~

27 ~~(k) He or she pays the fee for applicants for a special permit~~
28 ~~established by the board.~~

29 ~~1644. (a) Every person to whom a special permit is issued~~
30 ~~under this article shall be entitled to practice dentistry at the~~
31 ~~primary care clinic with which he or she has a contract as described~~
32 ~~in subdivision (i) of Section 1643 and the affiliated institutions of~~
33 ~~that clinic that are approved by the board.~~

34 ~~(b) The special permit shall be automatically revoked upon the~~
35 ~~termination of the holder’s full-time practice of dentistry at the~~
36 ~~primary care clinic described in subdivision (a), and he or she shall~~
37 ~~voluntarily surrender the permit to the board. The holder shall no~~
38 ~~longer be eligible to practice dentistry until he or she satisfies the~~
39 ~~requirements of Section 1643 and is issued another special permit~~
40 ~~by the board.~~

1 ~~1644.5. (a) The holder of a special permit shall annually~~
2 ~~apply to the board to renew the permit.~~

3 ~~(b) The holder of a special permit shall be subject to all of the~~
4 ~~provisions of this chapter that apply to licensed dentists.~~

5 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
6 ~~Section 6 of Article XIII B of the California Constitution because~~
7 ~~the only costs that may be incurred by a local agency or school~~
8 ~~district will be incurred because this act creates a new crime or~~
9 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
10 ~~for a crime or infraction, within the meaning of Section 17556 of~~
11 ~~the Government Code, or changes the definition of a crime within~~
12 ~~the meaning of Section 6 of Article XIII B of the California~~
13 ~~Constitution.~~

14 _____
15 CORRECTIONS

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